

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSE VASALLO-ALVAREZ,

Case No.: 2:22-cv-00110-APG-NJK

Petitioner

Order

v.

CALVIN JOHNSON, et al.,

Respondents

Petitioner has submitted a pro se petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). He has failed to submit an application to proceed *in forma pauperis* or pay the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2.

This action therefore is subject to dismissal without prejudice as improperly commenced. It does not appear from the papers presented that a dismissal without prejudice will materially affect a later analysis of any timeliness issue with respect to a new action.¹ Petitioner remains responsible at all times for the calculation of the statute of limitations.

I THEREFORE ORDER the Clerk of Court to DETACH and FILE the petition (ECF No. 1-1) on respondents.

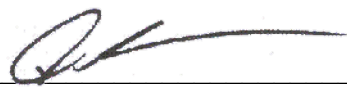
I FURTHER ORDER that this action is **DISMISSED** without prejudice.

¹ The court takes judicial notice of the Nevada Court of Appeals' docket, which reflects that on February 8, 2021, it affirmed the denial of petitioner's state postconviction petition challenging the validity of petitioner's *Alford* plea as untimely and therefore procedurally barred. Case No. 80058. The order indicates that petitioner's judgment of conviction was entered on June 17, 2015. *See also* ECF No. 1-1, p. 1.

1 I FURTHER ORDER that a certificate of appealability is **DENIED**, as jurists of reason
2 would not find the court's dismissal of this improperly commenced action without prejudice to be
3 debatable or incorrect.

4 I FURTHER ORDER that the Clerk of Court ENTER JUDGMENT accordingly and close
5 this case.

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7 Dated: February 14, 2022

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9 U.S. District Judge Andrew P. Gordon
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